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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,650	10/19/2001	Daniel M. Swain	SCM-121-A	9251

7590 03/26/2004

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EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,650

Applicant(s)

SWAIN, DANIEL M.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the fourth office action for U.S. Application 10/054,650 for a Dual Function Mirror Mount filed by Daniel M. Swain on October 19, 2001.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submissions filed on October 15, 2003 and February 17, 2004 have been entered.

Claim Objections

Claim 1 is objected to because of the following informalities: The third from the last line in claim 1, the word - - from - - should be inserted between "head" and "turning". Appropriate correction is required.

Claim Rejections - 35 USC § 102

Claims 1-5 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kerper. Kerper discloses a rear view mirror assembly with a plastic mirror head (16) for mounting a mirror and attachable to the end portion of a vehicle support bracket (15). The mirror head has an interior surface with an interior chamber and a periphery

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shaped to receive a mirror. There is a clamping means for clamping the mirror head tightly, yet turnably, around to the end portion of the bracket. The clamping means has an endwall portion (24) interiorly of the interior chamber with a socket for receiving the end portion of the bracket and an opening (at 20) in communication with the socket.

There is a clamping plate (26) formed from a resiliently rigid material (see col. 3, lines 22-25) and having first and second sleeve portions (61 and 62) that cooperate with the endwall portion, which has first and second sleeve portions (56), to form a socket for captivating the end portion of the bracket and constrain the mirror head to turn about an axis through the socket. The socket means has a plurality of parallel ribs extending upwardly from the endwall portion (each side of 54) to respective arcuate end surfaces to form a spherical cradle and the ribs extend proximate the opening in the endwall portion. There is a tightening means disposed at least in part, exteriorly of the interior chamber, for forcing the clamping plate and the endwall portion towards one another and against the end portion to prevent the mirror head from turning relative to the end portion. The tightening means is a first and second bore provided in the endwall portion and the clamping plate, respectively, as well as a fastener having a head portion adapted to engage the exterior surface of the mirror head. The fastener has a threaded portion sized to pass through the apertures, threadably engage the endwall, and draw the clamping plate toward the endwall portion with the end portion of the bracket therebetween. There is also a second opening (54) sized to receive an end portion of the stem.

Claim Rejections - 35 USC § 103

Claims 6-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper in view of Oishei. Kerper does not disclose a ball fixedly connected to a stem of the end portion of the bracket. Kerper does disclose a bushing (28) connected to the end of a stem portion (15) that extends through an opening for rotation within the clamping means. Oishei discloses a rear view mirror mounting with a bracket that is rotatably mounted within a clamping portion (35 and 36). The bracket has a stem (32) with a ball (27) connected to the end portion, which fits into a socket (formed by 37 and 38) in the clamp portion, to allow for rotation of the mirror in relation to the bracket. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted the ball and socket portions taught by Oishei, for the bearing and socket portions taught by Kerper, for the purpose of providing a more effective means of rotation for the mirror in relation to the bracket.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper. Kerper does not disclose a mirror head having engagement openings for receiving a mirror with fingers. Kerper does disclose a slot-projection relationship (or openings) to mount two parts (16 and 24) together. Therefore, Kerper discloses the structure of engagement openings. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided projections on the mirror to engage slots provided on the mirror head, for the purpose of securing the two together.

Response to Arguments

Applicant's arguments filed December 12, 2003 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the tightening means being accessible after assembly) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The assembly taught by Kerper can be accessed from outside the chamber and the mirror head prior to assembly. Applicant also argues that Kerper and Oshei do not disclose a dual function mounting mechanism that can mount either an elongated head or a ball mount. It is pointed out that Applicant has not claimed a mounting member that can mount both a shaft with a ball mount and an elongated shaft, but rather a dual mounting member that can mount one of the two.

The Examiner disagrees that Kerper fails to teach an opening in the endwall portion communicating with the socket. The opening of Kerper fits over the hole (20) in the housing (16). The Examiner also disagrees that Oshei fails to disclose an axial stem attached to the end portion of a vehicle mounting bracket. The Examiner agrees that Kerper fails to teach a spherical socket, however, the combination of Kerper and Oshei would result in a spherical socket for receiving the ball in the ball and socket connection. The ribs of the socket (formed by the ledges in 54, 56, and 58) are proximate to the opening.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

S. Marsh

Steven M. Marsh

March 21, 2004



LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER